

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

PAUL POGUE and
PAUL POGUE, in his capacity as
owner of SURVEYORS' PARK

Plaintiffs,

v.

TONY CHANDLER, et al.,

Defendants.

CIVIL ACTION NUMBER

2:06-cv-148-MHT

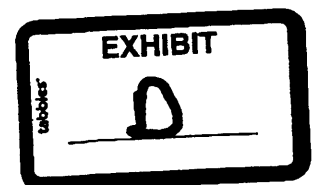
State of Alabama
County of Montgomery

AFFIDAVIT OF CHARLES T. CONWAY

Before me, a Notary Public in and for said County and State, personally appeared Charles T. Conway and, after having been by me first duly sworn, deposes and says under oath as follows:

1. My name is Charles T. Conway. In some filings related to this case I am identified as "Tom Conway." I am over (19) nineteen years of age and have personal knowledge of the facts as are set out herein.

2. I am employed by the Alabama Forestry Commission as an Attorney. I have been designated an Assistant Attorney General for the State of Alabama. I am one of the attorneys representing the Defendants in this action.



3. I am aware that the Plaintiff stated in his deposition that he asked me to have the Defendants present on the day of the Plaintiff's deposition so the Plaintiff could take the Defendants' depositions on that day (Exhibit A to Defendants' Motion for Summary Judgment, Deposition of the Plaintiff, page 89, lines 10-19 and page 122, lines 2-13).

4. I can state categorically that the Plaintiff has never filed any notice of his intent to depose the Defendants. The Plaintiff's only statement to me in this regard was on the day I spoke to him by telephone to attempt to schedule his deposition. The Plaintiff made the comment, "Good. Maybe we can do all of our discovery on the same day." I did not believe that this statement put me under any obligation to have the Defendants present at the time of the Plaintiff's deposition.

5. On April 4, 2006, the Defendants filed a Motion to Drop Fictitious Parties and a Motion to Strike "Paul Pogue, in his capacity as owner of Surveyors' Park." The Plaintiff has not responded to either of these motions.

6. On August 11, 2006, I wrote a letter to the Plaintiff asking him to provide his initial disclosures pursuant to the Federal Rules of Civil Procedure (Attachment A). To this date, the Plaintiff has not provided the requested initial disclosures.

7. On August 21, 2006, the Defendants served a document entitled "Defendants' First Requests for Admission" upon the Plaintiff. (Attachment B). The Plaintiff has failed to respond to this request.

8. On August 21, 2006, the Defendants served a document entitled "Defendants' First Request for Production of Documents" upon the Plaintiff. (Attachment C). The Plaintiff has failed to respond to this request.